

PROGRAM ADVISORY

SPB: 95/96-04

To: County Superintendents
District Superintendents

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From: Gabriel Cortina, Deputy Superintendent
Specialized Programs Branch

Program: School Safety and
Violence Prevention

Subject: EXPULSION POLICIES AND
EDUCATIONAL PLACEMENTS

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Purpose of this Advisory

This advisory provides information regarding changes made through recent legislation regarding: (1) student expulsion offenses and procedures, and the mandatory placement of expelled students; and (2) alternative educational placements for expelled and other at-risk students, specifically county community schools and district *community day schools*. This advisory primarily describes the provisions of two enacted bills, Assembly Bill 922 (Chapter 974, Statutes of 1995) and Senate Bill 966 (Chapter 972, Statutes of 1995). Finally, this advisory includes advice for school districts that plan to establish one or more *community day schools*.

The advisory contains seven major sections, beginning with a discussion on issues related to expulsion, followed by information about alternative educational placements, impacts on special education programs, reporting requirements, proposed funding in the 1996 Governor's budget, suggestions for school districts establishing *community day schools*, and 1995 legislation pertaining to expulsions and *community day schools*.

Expulsion Offenses, Procedures, Options, and Requirements

In light of the public interest and support for 'zero tolerance' policies and a perceived increase of violence in public schools, the Legislature comprehensively reviewed the laws dealing with suspension and expulsion and altered them during its 1995 session in several significant respects. At the same time, the Legislature expanded the responsibility of school districts to provide services to expelled students.

Expulsion Offenses

Current law authorizes governing boards to expel students for specified offenses, and categorizes the offenses by degree of seriousness and the corresponding amount of discretion governing boards have in responding to them. There are three categories of offenses: (1) less serious offenses for which the governing board may expel a student; (2) more serious offenses for which the principal or superintendent must recommend expulsion unless mitigating circumstances exist and the governing board may choose not to expel the student; and (3) mandatory offenses for which the principal or superintendent must immediately suspend and recommend expulsion and the governing board must expel the student if the offense occurred.

Less serious offenses for which the principal or superintendent may recommend expulsion, and the governing board may expel the student

A student may be expelled for the types of misconduct listed in subdivisions (f) through (m) of Section 48900,¹ or sections 48900.2 or 48900.3, only if other means of correction are not feasible or have repeatedly failed, or if the student's presence causes a continuing danger to the physical safety of the student or others (Section 48915 (e)). The only significant change in this area is the addition of Section 48900 (m), effective January 1, 1996, which allows a governing board to suspend or expel a student for possession of an imitation (replica) of a firearm that would lead a reasonable person to believe it was real. Expulsion for these reasons is entirely within the discretion of the school board; that is, there is no presumption that expulsion is appropriate.

More serious offenses for which the principal or superintendent normally must recommend expulsion, but the governing board may or may not expel the student

Absent mitigating circumstances, the principal or superintendent must recommend expulsion of students who:

1. cause a serious injury to another person, except in self-defense;
2. possess any knife or other dangerous object of no reasonable use to the student;
3. unlawfully possess drugs (except for a first offense involving less than an ounce of marijuana); or
4. rob or extort (Section 48915 (a)).

A governing board may order expulsion for these offenses only if: (1) other means of correcting the student's behavior are unfeasible or have repeatedly failed; or (2) the student's presence causes a continuing danger to the physical safety of the student or others (Section 48915 (b)). For these offenses, the burden is on the student to show why he or she should not be expelled; but the governing board still has discretion to decide whether expulsion is appropriate under all of the circumstances.

***Mandatory offenses for which the principal or superintendent must recommend expulsion, and the governing board must expel the student*²**

Effective January 1, 1996, the principal or superintendent must immediately suspend and the governing board must expel students who:

1. possess, sell, or furnish a firearm;
2. brandish a knife at another person; or
3. unlawfully sell a controlled substance (Section 48915 (c) and (d)).

For these mandatory offenses, a governing board must expel the student if the act actually occurred at school or at a school activity, regardless of any mitigating circumstances. The most significant change from prior law is extending the mandatory expulsion requirement to *selling or furnishing* a firearm, brandishing a knife, and selling drugs.

¹ Unless otherwise specified, all section citations are to sections of the *Education Code*.

² A district superintendent or a governing board must always exercise some judgment in expulsion cases, even regarding the 'zero tolerance' offenses. That is, in particular cases, there may be doubt as to whether a student intended to **sell** or just **possess** drugs at school. In others, it may be unclear whether a student "brandished" a knife with the intent to injure or threaten another person or was merely displaying with no malicious intent. In such cases, the consequences to the student and the referral/placement options open to the district will depend upon the factual findings and characterization of the student misconduct in the expulsion order.

Expulsion Procedures

New law specifies procedures for school districts when they take expulsion action, including subpoena power for governing boards.

Subpoenas available for expulsion hearings

Operative July 1, 1996,³ the procedural requirements for an expulsion hearing in Section 48918 have been amended to allow for the issuance of subpoenas by school boards. Such subpoenas may be requested by the district superintendent or the student to compel the testimony of witnesses. Subpoenas may not be issued to compel personal appearance where a witness would be placed in danger; however, the witness may be compelled to give a sworn declaration. Witnesses appearing pursuant to subpoena are entitled to receive the same fees and mileage reimbursement from the party requesting the subpoena as that received by witnesses in civil court proceedings.

Notice to parents or guardians

The notice to parents or guardians of expulsions or their suspension that is currently required by subdivision (j) of Section 48918, operative July 1, 1996, must also include a notice of the alternative placement assigned to the student.

Expulsion Options

New law provides some additional options for school districts when they take expulsion action.

Community service in lieu of suspension/expulsion

Effective January 1, 1996, Section 48900.6 allows governing boards to require students to perform community service in lieu of suspension or expulsion, except in cases when expulsion is required by law. The prior law authorized only school administrators to require such service. Community service may include outdoor beautification, campus betterment, and teacher or peer assistance programs.

'Suspension of expulsion'

Existing Section 48917 permits governing boards to adopt policies that must be uniformly applicable to all their expelled students, under which the board may suspend its order to expel and, as a condition of the suspension, assign the student to "a school, class, or program that is deemed appropriate for the rehabilitation" of the student. Students whose expulsion orders have been suspended are deemed to be on probationary status, and the governing board may reinstate a student's expulsion order if the student subsequently commits any 'suspendable' or 'expellable' offense or violates any of the district's own rules and regulations governing student conduct. The provisions of Section 48917 remain effective for all school districts, whether or not they choose to operate *community day schools*.

Expulsion Requirements

In 1995, the Legislature took action to change the length of expulsion orders, readmission requirements, and placements. These expanded requirements respond to federal requirements, address student needs, or satisfy safety factors.

³ AB 922 (Chap. 974, Statutes of 1995) is operative on July 1, 1996, if funds are appropriated to fund the provisions of AB 922 in the annual Budget Act. Since funds for that purpose have been included in the Governor's proposed budget for 1996-97, it is probable that those provisions will indeed be operative on July 1, 1996.

Length of expulsion

Operative July 1, 1996, (assuming timely funding) the minimum period of expulsion for students expelled for the mandatory offenses under subdivision (c) of Section 48915 is extended to one full year, if funds are appropriated to fund the provisions of AB 922 in the annual Budget Act (subdivision (a) of Section 48916). For lesser misconduct, a school board may consider readmission anytime, but not later than the end of the semester following the semester in which the student was expelled. (It should be noted that “urgency” legislation is currently being pursued that would establish an effective date for this provision earlier than to July 1, 1996, and without regard to whether funding is provided in the annual budget act for the provisions of AB 922.)

Rehabilitation plans for expelled students

Operative July 1, 1996, (assuming timely funding) the governing board must recommend a plan of rehabilitation for the student at the time of the expulsion order. The plan may include, but is not limited to, providing for periodic review, as well as an assessment at the time of review for readmission (Section 48916 (b)). The plan may include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs. Currently, a governing board may, but is not required to, recommend a rehabilitation plan for expelled students.

Program of study referrals

SB 966 added a provision, effective January 1, 1996, that requires a governing board to refer students who are expelled pursuant to subdivisions (b) and (e) of Section 48915, to a program of study that:

1. can appropriately accommodate students who exhibit discipline problems;
2. is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school; and
3. is not housed at the schoolsite attended by the student at the time of expulsion.

If the county superintendent of schools certifies that such a program of study, considered appropriate for students expelled according to subdivision (e), is available **only** at a comprehensive middle, junior, or senior high school, or another elementary school, the expelled student may be placed in that program, but **not** at the site from which the student was expelled.

Expulsion placements

AB 922 adds Section 48916.1, which requires school districts to ensure that an educational program is provided for all expelled students. This requirement first becomes operative on July 1, 1996, if funds are appropriated to fund the provisions of AB 922 in the annual Budget Act. AB 922 further specifies that any alternative educational programs provided may be operated by school districts, county superintendents of schools, consortia of districts, or jointly by school districts and county superintendents of schools. Governing boards must exercise caution, however, not to combine or merge the educational programs provided to students expelled from any kindergarten or grades 1 through 6 program with educational programs offered to students in any of grades 7 through 12. *In making these placements, school districts should consider the appropriateness of the identified placement for the students.*

Students expelled from grades 7 through 12, only, may participate in independent study, when available, in the program in which they are placed, pursuant to subdivision (a) of Section 48916.1. However, such a student’s parent or guardian must provide written consent before the

student can select the independent study option. A school district or county superintendent of schools must notify the expelled student that independent study is an optional and voluntary educational alternative, and the student's participation is possible only if independent study is offered as an alternative to available classroom instruction (Section 48916.1 (e)).⁴

Readmission of expelled students

At the time of expulsion, the governing board must set a date when the student shall be reviewed for readmission to the school the student last attended or to another school maintained by the district. Operative July 1, 1996, (assuming funding) upon completion of the readmission process, the governing board must readmit the student unless it finds that the student has not met the conditions of his or her rehabilitation plan or poses a continuing danger to school safety. If the governing board decides not to readmit a student, the board must state its reasons in writing and either continue the alternative placement of the student or place the student in another program of study (Section 48916 (d)).

Alternative Educational Placements

Joint Education Services Plan

AB 922 requires each county superintendent who operates community schools, in conjunction with superintendents of the school districts within the county, to develop a plan for providing education services to all expelled students in the county. According to Section 48926, the plan must:

1. identify existing educational alternatives for expelled students;
2. identify gaps in educational services to expelled students and strategies for filling those service gaps; and
3. identify alternative placements for students who are expelled and placed in district *community day schools* but who fail to meet the terms and conditions of their rehabilitation plan or who pose a continuing danger to school safety as determined by the governing board.

Finally, AB 922 requires the county board of education and the governing board of each school district within the county to: (1) adopt the plan; (2) submit the plan to the State Superintendent of Public Instruction by June 30, 1997; and (3) submit an update to the plan, including the outcome data required by Section 48916.1, every three years thereafter.

Facilities

AB 922 provides that the governing board of a school district offering alternative program placements for expelled students shall to do one or more of the following:

1. use available school facilities that conform to Field Act requirements;
2. apply for emergency portable classrooms;
3. certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to the Field Act, and then enter into lease agreements for facilities for which a structural engineer has submitted a report stating

⁴ It is likely the Legislature will review this issue in its current legislative session. CDE anticipates changes to the option of independent study for expelled students.

that they have no substantial structural hazards.

AB 922 further requires each school district to report to the State Allocation Board on the facilities utilized for operation of these programs and efforts to place programs in facilities that conform with the Field Act.

County Community Schools

SB 966 amended several sections related to county community schools. Effective January 1, 1996:

1. county community schools shall additionally receive the higher 'c' revenue limit for students who are expelled for brandishing a knife or unlawfully selling a controlled substance (Section 1981 (c));
2. county superintendents shall expend for community school purposes, only, any revenue that is received for the average daily attendance (ADA) generated by community school students (Section 1982.3); and
3. county community schools may serve students enrolled in kindergarten and grades 1 through 6 who have been expelled from a school district, as well as students in grades 7 through 12 (Section 1983.5). Under prior law, county community schools were allowed to serve only students in grades 7 through 12.

Operative July 1, 1996, county offices of education must ensure that programs provided to students expelled from kindergarten or grades 1 through 6 are not combined in any way with programs provided to students expelled from grades 7 through 12 (Section 48916.1 (d)).

District Community Day Schools

AB 922 authorizes school districts to establish *community day schools* (sections 48660–48664). These provisions will become operative on July 1, 1996, if the provisions of AB 922 are funded in the 1996 Budget Act.

Who may be served in a community day school

Under AB 922, a student in kindergarten and grades 1 through 12 may be assigned to a *community day school* if he or she:

1. is expelled for any reason;
2. is probation-referred pursuant to *Welfare and Institutions Code* sections 300 or 602; or
3. is referred to a *community day school* by a school attendance review board (SARB) or other district level referral process if a district does not operate a SARB.

AB 922 specifies that unless there is an agreement that the county superintendent of schools will serve any of the foregoing categories of students, assignment to *community day schools* shall be made in the following priority order: (1) students expelled for mandatory expulsion offenses (Section 48915 (d)), (2) students expelled for any other reason, and (3) all other students.

Finally, AB 922 requires the governing board to adopt policies that provide procedures for the involuntary transfer of students to a *community day school* (Section 48662).

Program components and requirements

AB 922 states legislative intent that school districts operating *community day schools* include the following program components: (1) low student–teacher ratios; (2) individualized instruction and assessment; and (3) maximum collaboration with school district support service resources.

Specifically, AB 922:

1. requires a minimum school day of 360 minutes of classroom instruction supervised by a certificated employee of a district or county office of education (Section 48663 (a));
2. prohibits the use of independent study as an instructional method (Section 48663 (d)); and
3. authorizes the governing board of a school district maintaining a *community day school* to establish attendance policies requiring students to attend school for up to seven days each week (Section 48666).

Location of school site

Under AB 922, if students expelled for one of the more serious or mandatory offenses (Section 48915 (b) and (d)) are served in a *community day school*, the program cannot be situated on a comprehensive school site, unless the county superintendent of schools certifies that no alternative program of study is available at a site away from a comprehensive school site. If the county superintendent so certifies, the student may then be referred to a *community day school* that is provided at a comprehensive school site (Section 48661).

Attendance Accounting and Program Funding for Community Day Schools

The Legislature provided incentive funding for *community day schools* to offset costs of operating a longer instructional day and providing support services for students.

Basic funding

Subdivision (a) of Section 48663 provides that the minimum day in the new *community day schools* is six hours. Accordingly, if a district requires a student to attend a *community day school* for at least six hours per day and on any given school day the student does attend the *community day school* for any part of that required day, the student generates one day of attendance credit for the school district.

Minimum day for students with exceptional needs

Consistent with the provisions of Section 46307, if a student with exceptional needs enrolls in a *community day school* and has an Individualized Education Program (IEP) that specifies a school day for the student of less than six hours, the day-length specified in the student's IEP shall also be the student's 'minimum day' for purposes of calculating the student's ADA—but not for the additional incentive funding explained in the sections following. To generate credit for the additional incentive funding, a student with exceptional needs must attend the same amount of time as any other student enrolled in *community day schools*.

Additional incentive funding

Section 48664 provides for additional funding of \$1,500 per unit of *community day school* ADA per year. Subdivision (c) of Section 48663 more specifically provides that for the additional funding, *community day school* attendance shall be reported in clock hours for each day, so that when a student's requirement is to attend a specific period of 60 minutes in *community day school* and the student in fact attends for some part of that period, the student thereby generates one hour of attendance for that school day. Subdivision (c) further provides that a student's attendance of less than five hours in a school day shall generate no attendance credit for the additional funding, that attendance of five hours will generate one-half day of credit for the additional funding, and that attendance of six hours or more will generate one whole day of attendance credit for the additional funding.

Incentive funding for longer 'supervised' day

Subdivision (c) of Section 48664 provides additional funding of \$1.40 per hour for up to two hours per student per day of *community day school* attendance beyond the first six hours of required attendance in each day. This additional attendance must be “under the supervision of a school district employee,” but the employee may be an aide or other uncredentialed person, instead of the employee “who possessed a valid certification document” that is required for the first six hours of the *community day school*’s day pursuant to subdivision (a) of Section 46300.

‘Small district’ waivers

The Legislature recognized that smaller school districts, if they are unable to join in consortia, may have difficulty operating *community day schools* or otherwise providing alternative placements for all their expelled students within the funding limitations of AB 922. To address this concern, Section 48664 provides that districts with fewer than 2501 ADA may apply for a waiver from the Superintendent of Public Instruction, for any fiscal year, of the incentive funding limitations of AB 922. The Superintendent shall grant the waiver if he or she deems it necessary in order to permit the operation of a community day school of “reasonably comparable quality” to those operated by larger districts. In no event, however, shall the larger amount of funding permitted by such a waiver exceed the amount allowed for one teacher under the basic ‘necessary small school’ funding formulas found in Section 42284.

Day-per-day attendance credit limit

Subdivision (b) of Section 48663 provides that *community day school* students “may not generate more than one day of community day school attendance in a schoolday...” For example, a student who attended a *community day school* for 12 hours all in one school day would generate one day of attendance credit (as well as one full day of credit toward the separate \$1,500 of additional funding, plus two hours of ‘supervised attendance’ funding).

Length of school year

The new legislation does not specify a minimum (or maximum) number of days in a school year for *community day schools*. Subdivision (b) of Section 48664 instead provides a ‘fixed divisor’ of 180 for use in calculating ADA for *community day schools*, “even if the *community day school* has a school year in excess of 180 days.”

ADA is usually calculated by dividing the total number of student-days of attendance in a specified period of months by the number of days school was in session during those months, whatever that exact number is for a given district on the specified date for ADA calculation. Specified ‘fixed divisors,’ which are substituted in some programs’ ADA calculations for the numbers of days schools were in session, automatically increase funding credit proportionally for each additional day of instruction beyond the number embodied in the divisor (and automatically reduce funding credit proportionally for each day by which the number of days of instruction is smaller than the divisor). School districts that plan to establish *community day schools* should therefore consider the option of operating those schools beyond the lengths of the districts’ normal school years, up to and including year-round, as each additional day of *community day school* will generate additional funding credit for each student who attends.

Incentive funding limitation for some students

ADA reported for the additional \$1,500 incentive for mandatory expelled students, only, is not subject to a cap; and technical ‘continuous appropriation’ language in AB 922 has the effect of providing that all such claims will be fully funded. ADA reported for the additional \$1,500 incentive for all other *community day school* students may not exceed 0.375 percent of the district’s prior year P-2 ADA in an elementary school district, 0.5 percent of the district’s prior

year P-2 ADA in a unified school district, and 0.625 percent of the district's prior year P-2 ADA in a high school district (Section 48664 (a)).

Apportionment claim procedures and forms

CDE will provide districts with additional, more detailed information in future months regarding forms and procedures for reporting *community day school* ADA.

Impact on Special Education

Section 48916, which requires that the governing board of a school district ensure that an educational program is provided to expelled students during the period of their expulsion, applies to *all* students, including students with disabilities eligible for special education under Section 56026. This requirement is consistent with the United States Department of Education's policy, which CDE supports, that under the free, appropriate public education requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1412(1) and (2), educational services will continue to be offered by local educational agencies (LEAs) to students with disabilities who are expelled for reasons of misconduct.

Although the operative date of Section 48916.1 is not until July 1, 1996, CDE advises that continued educational services must be provided in the interim to students with disabilities, consistent with CDE's understanding of the requirements of federal law. LEAs may use existing special education or general education program funding sources to continue providing educational services for all students with IEPs who have been expelled.

Post-expulsion educational services shall be specified by the student's IEP team. Such services may be provided in a community school, alternative school, nonpublic, nonsectarian school, in the home, or in another setting. The educational services for an expelled student with disabilities must be individually designed to meet the student's unique learning needs.

The procedural safeguard provisions of sections 48915.5 and 48915.6 are pertinent to the expulsion process for students with disabilities and must be followed. In the opinion of CDE, the special procedures provided in Section 48915.6 are mandated by federal law. (*Honig v. Doe*, 484 U.S. 305.)

To the extent that it conflicts with them, this program advisory supersedes prior CDE legal and program advisories on expulsion of students with IEPs.

Reporting Requirements

School District and County Office Reporting Requirements

AB 922 requires school district governing boards to maintain outcome data and report it upon request to CDE on students who are expelled for any reason and then enrolled in education programs operated by county superintendents of schools or by school districts (Section 48916.1 (f)). Outcome data shall include, but not be limited to:

1. attendance, graduation, and dropout rates of expelled students enrolled in alternative placement programs;
2. attendance, graduation, and dropout rates, and comparable levels of academic progress, of students participating in independent study offered by the school district;
3. the numbers of students placed in *community day school* or participating in independent

study whose immediate preceding placements were county community school, continuation school, and comprehensive school, and who were not enrolled in any school;

4. the numbers of students placed in *community day school* whose subsequent placements are county community school, continuation school, and comprehensive school, and who are not enrolled in any school.

If a county office of education operates the education program, the county superintendent must provide the needed outcome data to the referring school district, including outcome data on students participating in independent study in programs operated by the county office of education.

CDE Reporting and Evaluation Requirements

AB 922 requires CDE to evaluate and report to the appropriate legislative policy and budget committees by October 1, 1998, and for two years thereafter:

1. the number of expulsions statewide;
2. the number of school districts operating *community day schools*;
3. the status of the countywide plans required in Section 48926;
4. an evaluation of the ADA funding percentage cap for *community day schools*;
5. the number of small school districts requesting, and the number of receiving, small district funding waivers;
6. the effect of hourly attendance accounting under Section 48663 for receiving the additional \$1,500 per ADA;
7. the number of students and ADA served in *community day schools*, and the number in each of the allowed categories described in Section 48662;
8. student outcome data as required in subdivision (f) of Section 48916.1; and
9. other programmatic or fiscal data determined by CDE.

CDE will provide districts with additional, more detailed information in the fall of 1996 regarding how to report *community day school* data.

1996 Governor's Budget

The 1996 Governor's Budget proposes to appropriate \$45.8 million to fund all the provisions of AB 922, including funding for *community day schools*. The Governor's Budget also budgets a \$10 million augmentation for county community schools to support the full-year implementation of 'zero-tolerance' expulsions.

CDE Suggestions for School Districts Establishing Community Day Schools

Development of a Comprehensive County-School District Plan

School districts may establish *community day schools* beginning July 1, 1996. The comprehensive county-district plans, however, are not required until June 30, 1997. CDE believes, however, that the decision to establish *community day schools* should be made in the context of a larger comprehensive plan to serve all expelled and other at-risk students in the school district and the county. Development of the plan for providing services to expelled students is an opportunity

for county offices and school districts to collaborate and develop a strategy that addresses the needs of at-risk students in a preventive and comprehensive manner.

In developing the comprehensive plan, county offices and school districts should view *community day school* as an appropriate placement for some, but not necessarily all, expelled students. In addition, the *community day school* can effectively meet the needs of some students who have **not** been expelled. The *community day school* will provide a structured and supervised environment that provides an option to school districts in meeting their students' educational needs.

Planning for Community Day Schools

CDE understands that school districts have many factors to consider before deciding to establish *community day schools* as alternative programs for students. Establishing any new district program requires careful examination and discussion by district staff to assure that there will be local governing board support, administrative leadership, and appropriate staffing to realize locally developed goals for the new schools. School districts should keep in mind that the students served in community school education are often a challenge to school administrators and teachers. Many of these youth exhibit an array of behavior problems and need intensive assistance in their psychological, social, and academic development. Some of these youth are low-performing and others may be gifted. Many may have diagnosed or undiagnosed learning disabilities that require specific learning strategies. County community schools have developed years of experience, resources, and trained personnel familiar with the type of curriculum, as well as support services that are most effective with at-risk youth. Districts may therefore benefit greatly from collaborative efforts with county personnel in the planning and development of district *community day schools*.

Program Development, Goals, and Support

Districts should be able to offer the resources needed or be able to access the specialized skills required by staff to assist in the rehabilitation of these youth. School districts operating *community day schools* should cooperate to the extent possible with county offices of education, law enforcement, probation, and human services agencies personnel who work with at-risk youth to provide programs that will respond to student needs. Program support services for students and their families should come from a variety of other school and community resources.

Administrative Structure for Community Day Schools

The new legislation does not provide a 'structural' definition of *community day schools*. Preexisting Education Code provisions do in many places distinguish between 'schools' and 'classes,' and the new legislation exclusively uses the term 'schools.' Hence, the broad professional consensus that 'good practice' requires the separate and essentially self-contained entity of any public 'school,' whatever its other features, to have a qualified manager who is both its own chief administrator and its instructional leader would appear to be equally as relevant to *community day schools* as to any others.

School districts should apply all the same standards for establishing *community day schools* that are in place for any other school in the district; that is, at a minimum, application for a County District School (CDS) Code, and assignment of a principal and an administrative unit to support and oversee the function of the school and staff.

Staffing

Classroom instruction in a *community day school* must be provided by a certificated employee of the district or of a consortium of school districts. Given the various reasons students may be assigned to a *community day school*, districts should ensure there is a low student–teacher ratio and a corresponding individualized instructional and assessment program. Districts should also take action to ensure maximum collaboration with district support service resources such as school counselors and psychologists, academic counselors, and student discipline personnel.

Approval process for operating a district community day school

There is no application or approval process for establishing a *community day school*. Districts do not need permission from the State Superintendent of Public Instruction or their county superintendents to operate district *community day schools*.

Although districts do not need permission to initiate *community day schools*, they are requested to submit the Letter of Intent, included in this advisory, by **April 19, 1996**, to notify CDE of their intentions. The purpose of the Letter of Intent is to provide CDE with an indication of the level of interest districts have in operating *community day schools* and to establish a mailing list for future information related to the new schools.

For further information about programmatic aspects of county community schools and district *community day schools*, please contact Mary Tobias Weaver, Program Administrator, or Clara Chapala, Consultant, at (916) 323-2183. For information regarding attendance accounting and apportionments, contact John Gilroy, Field Representative, at (916) 323-8478. For legal information concerning this advisory, contact Michael Hersher, Deputy Chief Counsel, at (916) 657-2453.

Notice

The guidance in this advisory is not binding on local educational agencies or other entities. This advisory is exemplary, and compliance with it is not mandatory. (See *Education Code* § 33308.5)

Legislative Summary

Laws Passed But Not Taking Effect

AB 49 (Chap. 973, Statutes of 1995) amended Education Code Section 48916, but the changes were ‘chaptered out’ by AB 922.

AB 618 (Chap. 937, Statutes of 1995) amended Education Code Section 48918, but the changes were ‘chaptered out’ by AB 922.

SB 966 (Chap. 972, Statutes of 1995) amended numerous Education Code sections, but sections 9, 12, and 13 of the bill were ‘chaptered out’ by AB 922.

AB 922 (Chap. 974, Statutes of 1995) added two new versions of Education Code Section 48918 in sections 7 and 7.5 of the bill. However, since Section 7 was double-joined to AB 618, which did not take effect, the version in Section 7.5 has become the law.

Laws Taking Effect in 1996, if Funded

AB 620 (Chap. 95, Statutes of 1995) amends *Education Code* Section 48917, effective January 1, 1996. The change has no funding contingencies.

AB 966 (Chap. 972, Statutes of 1995) amends *Education Code* sections 1981, 1983.5, 42238.18, 48900, 48900.6, 48915, 48915.5, and 49079, and adds section 1982.3. These changes are effective on January 1, 1996.⁵

AB 922 (Chap. 974, Statutes of 1995) amends *Education Code* sections 48915.2, 48916, and 48918, adds sections 39141.12, 48916.1, and 48660-48666, and repeals section 48915.7. This enactment became **effective** January 1, 1996, pursuant to California Constitution article IV, section 8 (c), except that Section 9 of AB 922 states that “this act shall not become **operative** until July 1, 1996, [and] only to the extent funds are appropriated for its purpose in the annual Budget Act, or other legislation, or both.”⁶

⁵ Section 15 of SB 966 states that “this act shall be implemented only to the extent that funding is made available by the Legislature during the 1995-96 fiscal year” for the half-year cost of the Governor’s “zero tolerance policy.” The 1995-96 Budget Act includes an additional \$10 million appropriated to cover the increased costs for county community schools resulting from the increase in expulsions under AB 966. Therefore, the changes to the code sections referenced above take effect on January 1, 1996.

⁶ *Education Code* Section 48915 (c) refers to pupils expelled for the ‘zero tolerance’ offenses: sale of drugs, brandishing a knife, or possession or sale of a firearm. The intent of Section 9 of AB 922 appears to be that the ‘safety net’ provisions of new *Education Code* Section 48916.1 apply to pupils expelled for these serious offenses on July 1, 1996, even if funds are not appropriated for new community day schools in the 1996-97 Budget Act.

California Department of Education
School Safety and Violence Prevention Office

Letter of Intent

DISTRICT COMMUNITY DAY SCHOOLS

By April 19, 1996, please send or FAX a completed Letter of Intent to:

Mary Tobias Weaver, Program Administrator
School Safety and Violence Prevention Office
560 J Street, Suite 260
Sacramento, CA 95814

FAX: (916) 323-6061

School District _____ County _____

The school district named above (please check one below):

- ☐ a. Intends to establish one or more community day schools to operate in 1996-97*

_____ **If the district intends to establish more than one community day school, **how many** will it establish?*

- ☐ b. Does **not** intend to establish a community day school in 1996-97

- ☐ c. Intends to participate in a consortium of districts to provide access to a *community day school*

- ☐ d. Intends to establish one or more community day schools to operate in 1997-98

District Superintendent of Schools	Date
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Street Address	City	Zip
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District Contact Person	Telephone	FAX
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